

***United States Court of Appeals
for the Second Circuit***



APPENDIX

75-4253

To be argued by
Haynes N. Johnson

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 75-4253

MIANUS RIVER PRESERVATION COMMITTEE,
FRANK E. WOLF, CHARLES H. BIEDERMAN,
and ROBERT D. HENKLEIN,

Petitioners,

v.

ADMINISTRATOR, ENVIRONMENTAL PROTECTION
AGENCY, and COMMISSIONER, STATE OF CONNECTI-
CUT DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Respondents.

Petition For Review of NPDES Permit
Modification Issued By Respondents

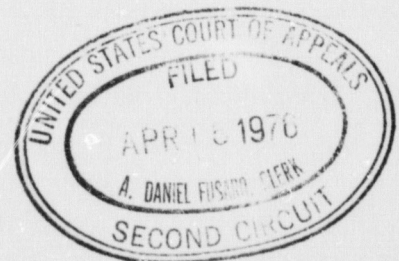
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PETITIONERS' APPENDIX

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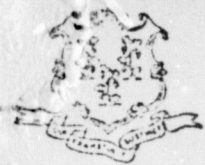
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Note: Respondent EPA has failed to file its record with this Court (see Court Order to do so dated March 22, 1976). Therefore, the record before this Court is incomplete.

DOCKET ENTRIES

Though no docket as such is believed to exist, the below dates are set forth for reference:

- May 22, 1972 - State Order to Greenwich Water Company to Abate Pollution, Order No. 979, providing for abatement by November 30, 1973 (App. 17)
- January 25, 1973 - Engineering Report on method for abatement submitted by Greenwich Water Company (App. 18)
- January 10, 1974 - Detailed Plans and Specifications for abatement facilities submitted and approved (App. 19)
- March 10, 1975 - NPDES permit to Greenwich Water Company (App. 6), setting aside May 22, 1972 order (App. 22)
- June 25, 1975 - Hearing held on aforesaid permit (App. 34); this hearing was taped, but Respondent has not furnished a transcript for the Record of this Court.
- August 14, 1975 - Report and Recommendations of Hearing Examiner (App. 34)
- August 26, 1975 - Concurrence with Recommendations (App. 38)
- August 26, 1975 - NPDES Permit of March 10, 1975 modified (App. 1)
- November 24, 1975 - Petition For Review Filed.



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OFFICE BUILDING HARTFORD, CONNECTICUT 06115
WATER COMPLIANCE AND HAZARDOUS SUBSTANCES
DIVISION OF ENVIRONMENTAL QUALITY
CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OFFICE BUILDING - ROOM 129
HARTFORD, CONNECTICUT 06115

NPDES PERMIT

August 26, 1975

Greenwich Water Company
Mianus Filter Plant
125 East Putnam Avenue
Greenwich, Connecticut 06830

Attention: Mr. J. O. Yates, Jr.,
Manager

Re: DEP/WPC 057-015
Town of Greenwich
Mianus River Watershed

Gentlemen:

This order modification is authorized to be issued by Chapter 474a, Connecticut General Statutes and Section 402(b), Federal Water Pollution Control Act Amendments of 1972, 86 Stat. 816 et. seq., and pursuant to an approval dated September 26, 1973, by the Administrator of the United States Environmental Protection Agency for the State of Connecticut to administer an N.P.D.E.S permit program.

Your application, filed with the U.S. Army Corps of Engineers under Section 13 of the River and Harbor Act of 1899 on June 30, 1971 has been reviewed by the Connecticut Department of Environmental Protection.

The Director, Water Compliance and Hazardous Substances Division, Department of Environmental Protection (hereinafter "the Director") hereby finds that the Greenwich Water Company - Mianus Filter Plant is maintaining a facility described in the above referenced application which is causing pollution of the waters of the state under the provisions of Chapter 474a of the Connecticut General Statutes.

The Director, acting under Section 25-54o, hereby modifies Order No. 979 to require that upon completion of the treatment facilities such action be taken as is necessary to:

- 1) Insure that all wastewaters generated by the activities carried on at the facilities described in the above referenced application will be collected, and/or treated and discharged in accordance with this order modification.
- 2) Insure that all discharges described in this order shall not exceed and shall otherwise conform to the specific terms and general conditions specified herein.

A) Discharge Serial No. 001 (Filter Wash Water)

Before July 31, 1978

Receiving Stream - Mianus River
Average Daily Flow - 200,000 gallons per day

<u>Parameter</u>	<u>Average Daily Quantity</u>	<u>Average Daily Concentration</u>
Aluminum	41.6 kg/day	55.0 mg/l
Total Suspended Solids	330. kg/day	42.0 mg/l

- 1) The pH of the discharge shall not be less than 6.0 or greater than 9.0.

After July 31, 1978

The discharge will be eliminated.

B) Discharge Serial No. 002 (Sludge Disposal)

Before July 31, 1978

Receiving Stream - Mianus River
Average Daily Flow - 250,000 gallons per day

<u>Parameter</u>	<u>Average Daily Quantity</u>	<u>Average Daily Concentration</u>
Aluminum	18.9 kg/day	20.0 mg/l
Total Suspended Solids	198.5 kg/day	210.0 mg/l

- 1) The pH of the discharge shall not be less than 6.0 or greater than 9.0.

After July 31, 1978

The discharge will be eliminated.

C) Discharge Serial No. 003 (Sludge Disposal)

Before July 31, 1978

Receiving Stream - Mianus River
Average Daily Flow - 250,000 gallons per day

<u>Parameter</u>	<u>Average Daily Quantity</u>	<u>Average Daily Concentration</u>
Aluminum	18.9 kg/day	20.0 mg/l
Total Suspended Solids	198.5 kg/day	210.0 mg/l

- 1) The pH of the discharge shall not be less than 6.0 or greater than 9.0.

After July 31, 1978

The discharge will be eliminated.

3) Not discharge any new pollutant not authorized by this order which has or may have an adverse impact on the receiving waters.

4) Monitor and record the following for the purpose of reporting quality and quantity of each discharge according to the following schedule:

A) Discharge Serial No. 001

<u>Parameter</u>	<u>Minimum Frequency of Sampling</u>	<u>Sample Type</u>
Aluminum	Semi-Annually	Composite
Total Suspended Solids	Semi-Annually	Composite
pH	Semi-Annually	Range During Composite

- 1) Record the total flow during the period of composite sample collection.

B) Discharge Serial No. 002

<u>Parameter</u>	<u>Minimum Frequency of Sampling</u>	<u>Sample Type</u>
Aluminum	Semi-Annually	Composite
Total Suspended Solids	Semi-Annually	Composite
pH	Semi-Annually	Range During Composite

- 1) Record the total flow during the period of composite sample collection.

C) Discharge Serial No. 003

<u>Parameter</u>	<u>Minimum Frequency of Sampling</u>	<u>Sample Type</u>
Aluminum	Semi-Annually	Composite
Total Suspended Solids	Semi-Annually	Composite
pH	Semi-Annually	Range During Composite

- 1) Record the total flow during the period of composite sample collection.

5) Not bypass the treatment facilities at any time.

6) Dispose of screenings, sludges and other solids and other liquid chemicals at locations approved in accordance with the provisions of Chapter 474a and/or Chapter 361a of the Connecticut General Statutes or to waste haulers licensed under Chapter 474a of the Connecticut General Statutes.

7) Provide an alternate power source adequate to operate the treatment facilities and/or such other means as may be appropriate to insure that no discharge of untreated or partially treated wastewater will occur during a failure of the primary power source.

8) On or before April 30, 1975 verify to the Director that compliance with paragraph 1 is being achieved and that the provisions of paragraphs 1, 2, 3, 4, 5, 6 and 7 will be complied with.

9) On or before December 31, 1976 submit for the review and approval of the Director a report detailing the existing or proposed system of achieving compliance with the terms of paragraph 7 including if appropriate a time schedule for

1) the submission of plans and/or specifications, 2) the start of construction and 3) the placing of the system in operation.

10) On or before March 31, 1975 and semi-annually thereafter submit to the Director all detailed monitoring data required under the provisions of paragraph 4 above.

The above described specific terms may be revised following public notice and public hearing, if required, on the basis of a detailed engineering study if agreed to by the Director.

The Greenwich Water Company - Mianus Filter Plant is further ordered to accomplish the above described program, except as may be revised by the recommendations of detailed engineering study and agreed to by the Director in accordance with the following schedule:

- A) On or before December 31, 1975, submit to the Director an engineering report on the holding tanks to allow the discharge of filter backwash water and sludge during off-peak hours to the Greenwich sanitary sewer system.
- B) On or before December 31, 1976, submit to the Director plans and specifications on the holding tanks
- C) On or before April 30, 1977 verify to the Director that construction has been started on the holding tanks.
- D) On or before June 30, 1978, verify to the Director that a self-cleaning traveling screen on the raw water intake is in operation.
- E) On or before July 31, 1978 verify to the Director that the discharges has been directed to the Town of Greenwich wastewater collection system.

This order shall be considered as the permit required by Section 402 of the Federal Water Pollution Control Act and shall expire on July 31, 1978.

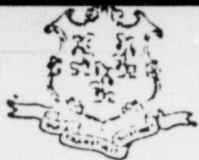
This order shall be subject to all the NPDES General Conditions dated December 27, 1975 which are hereby incorporated into this order.

Upon verification of full compliance with this order, a letter acknowledging this order to be equivalent of a permit issued under section 25-54i and/or a revised NPDES permit will be issued.

Entered as an order modification of the Director 26th day of August, 1975.

Robert B. Taylor
Robert B. Taylor, DIRECTOR
WATER COMPLIANCE AND HAZARDOUS SUBSTANCES
Department of Environmental Protection
State of Connecticut

Order No. 979 Modified
NPDES No. CT0001325
Application No. 07Y000200829



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OFFICE BUILDING HARTFORD, CONNECTICUT 06115

WATER COMPLIANCE AND HAZARDOUS SUBSTANCES
DIVISION OF ENVIRONMENTAL QUALITY
CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OFFICE BUILDING - ROOM 129
HARTFORD, CONNECTICUT 06115

NPDES PERMIT

March 10, 1975

Greenwich Water Company
Mianus Filter Plant
125 East Putnam Avenue
Greenwich, Connecticut 06830

Attention: Mr. J. O. Yates, Jr.,
Manager

Re: DEP/WPC 057-F01
Town of Greenwich
Mianus River Watershed

Gentlemen:

This order modification is authorized to be issued by Chapter 474a, Connecticut General Statutes and Section 402(b), Federal Water Pollution Control Act Amendments of 1972, 86 Stat. 816 et. seq., and pursuant to an approval dated September 26, 1973, by the Administrator of the United States Environmental Protection Agency for the State of Connecticut to administer an N.P.D.E.S permit program.

Your application, filed with the U.S. Army Corps of Engineers under Section 13 of the River and Harbor Act of 1899 on June 30, 1971 has been reviewed by the Connecticut Department of Environmental Protection.

The Director, Water Compliance and Hazardous Substances Division, Department of Environmental Protection (hereinafter "the Director") hereby finds that the Greenwich Water Company-Mianus Filter Plant is maintaining a facility described in the above referenced application which is causing pollution of the waters of the state under the provisions of Chapter 474a of the Connecticut General Statutes.

The Director, acting under Section 25-54a, hereby , modifies Order No. 979 to require that upon completion of the treatment facilities such action be taken as is necessary to:

- 1) Insure that all wastewaters generated by the activities carried on at the facilities described in the above referenced application will be collected and/or treated and discharged in accordance with this order modification.

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2) Insure that all discharges described in this order shall not exceed and shall otherwise conform to the specific terms and general conditions specified herein.

Before Treatment Plant Is Operational (If Constructed) or Sludge Disposal Connected To Sanitary Sewer

- A) Discharge Serial No. 001 (Filter Wash Water)
Receiving Stream - Mianus River
Average Daily Flow - 200,000 gallons per day

<u>Parameter</u>	<u>Average Daily Quantity</u>	<u>Average Daily Concentration</u>
Aluminum	41.6 kg/day	55.0 mg/l
Total Suspended Solids	330. kg/day	42.0 mg/l

- 1) The pH of the discharge shall not be less than 6.0 or greater than 9.0.

- B) Discharge Serial No. 002 (Sludge Disposal)
Receiving Stream - Mianus River
Average Daily Flow - 250,000 gallons per day

<u>Parameter</u>	<u>Average Daily Quantity</u>	<u>Average Daily Concentration</u>
Aluminum	18.9 kg/day	20.0 mg/l
Total Suspended Solids	198.5 kg/day	210.0 mg/l

- 1) The pH of the discharge shall not be less than 6.0 or greater than 9.0.

- C) Discharge Serial No. 003 (Sludge Disposal)
Receiving Stream - Mianus River
Average Daily Flow - 250,000 gallons per day

<u>Parameter</u>	<u>Average Daily Quantity</u>	<u>Average Daily Concentration</u>
Aluminum	18.9 kg/day	20.0 mg/l
Total Suspended Solids	198.5 kg/day	210.0 mg/l

- 1) The pH of the discharge shall not be less than 6.0 or greater than 9.0.

After Treatment Plant Is Operational (If Constructed) or Sludge Disposal Connected to Sanitary Sewer

- A) Discharge Serial No. 001 (Filter Wash Water)
Receiving Stream - Mianus River
Average Daily Flow - 180,000 gallons per day

<u>Parameter</u>	<u>Average Daily Quantity</u>	<u>Average Daily Concentration</u>
Aluminum	1.36 kg/day	2.0 mg/l
Total Suspended Solids	20.4 kg/day	30.0 mg/l

Discharge Serial No. 001

Continued:

- 1) The pH of the discharge shall not be less than 6.0 or greater than 9.0.
 - 2) The discharge shall not contain a visible oil sheen, foam or floating solids.
 - 3) The discharge shall not cause visible discoloration of the receiving waters.
 - 4) The average daily concentrations specified above shall not be exceeded by more than a factor of 2.0 during any four hour period.
- B) Discharge Serial No. 002 (Proposed)
Receiving Stream - Mianus River
Average Daily Flow - 10,000 gallons per day

<u>Parameter</u>	<u>Average Daily Quantity</u>	<u>Average Daily Concentration</u>
Aluminum	.08 kg/day	2.0 mg/l
Total Suspended Solids	1.14 kg/day	30.0 mg/l

- 1) The pH of the discharge shall not be less than 6.0 or greater than 9.0.
 - 2) The discharge shall not contain a visible oil sheen, foam or floating solids.
 - 3) The discharge shall not cause visible discoloration of the receiving waters.
 - 4) The average daily concentrations specified above shall not be exceeded by more than a factor of 2.0 during any four hour period.
- 3) Not discharge any new pollutant not authorized by this order which has or may have an adverse impact on the receiving waters.
- 4) Monitor and record the following for the purpose of reporting quality and quantity of each discharge according to the following schedule:

Before Treatment Is Operational or Sludge Disposal Connected to Sanitary Sewer

A) Discharge Serial No. 001

<u>Parameter</u>	<u>Minimum Frequency of Sampling</u>	<u>Sample Type</u>
Aluminum	Semi-Annually	Composite
Total Suspended Solids	Semi-Annually	Composite
pH	Semi-Annually	Range During Composite

- 1) Record the total flow during the period of composite sample collection.

B) Discharge Serial No. 002

<u>Parameter</u>	<u>Minimum Frequency of Sampling</u>	<u>Sample Type</u>
Aluminum	Semi-Annually	Composite
Total Suspended Solids	Semi-Annually	Composite
pH	Semi-Annually	Range During Composite

- 1) Record the total flow during the period of composite sample collection.

C) Discharge Serial No. 003

<u>Parameter</u>	<u>Minimum Frequency of Sampling</u>	<u>Sample Type</u>
Aluminum	Semi-Annually	Composite
Total Suspended Solids	Semi-Annually	Composite
pH	Semi-Annually	Composite

- 1) Record the total flow during the period of composite sample collection.

After Treatment Plant Is Operational (If Constructed) or Sludge Disposal Connected To Sanitary Sewer

A) Discharge Serial No. 001

<u>Parameter</u>	<u>Minimum Frequency of Sampling</u>	<u>Sample Type</u>
Aluminum	Monthly	Composite
Total Suspended Solids	Monthly	Composite
pH	Monthly	Range During Composite

- 1) Record the total flow during the period of composite sample collection.

B) Discharge Serial No. 002

<u>Parameter</u>	<u>Minimum Frequency of Sampling</u>	<u>Sample Type</u>
Aluminum	Monthly	Composite
Total Suspended Solids	Monthly	Composite
pH	Monthly	Range During Composite

- 1) Record the total flow during the period of composite sample collection.

- 5) Not bypass the treatment facilities at any time.

- 6) Dispose of screenings, sludges and other solids and other liquid chemicals at locations approved in accordance with the provisions of Chapter 474a and/or Chapter 361a of the Connecticut General Statutes or to waste haulers licensed under Chapter 474a of the Connecticut General Statutes.

7) Provide an alternate power source adequate to operate the treatment facilities and/or such other means as may be appropriate to insure that no discharge of untreated or partially treated wastewater will occur during a failure of the primary power source.

8) On or before April 30, 1975 verify to the Director that compliance with paragraph 1 is being achieved and that the provisions of paragraphs 1, 2, 3, 4, 5, 6 and 7 will be complied with.

9) On or before December 31, 1976 submit for the review and approval of the Director a report detailing the existing or proposed system of achieving compliance with the terms of paragraph 7 including if appropriate a time schedule for 1) the submission of plans and/or specifications, 2) the start of construction, and 3) the placing of the system in operation.

10) On or before March 31, 1975 and semi-annually thereafter submit to the Director all detailed monitoring data required under the provisions of paragraph 4 above.

The above described specific terms may be revised following public notice and public hearing, if required, on the basis of a detailed engineering study if agreed to by the Director.

The Greenwich Water Company - Mianus Filter Plant is further ordered to accomplish the above described program, except as may be revised by the recommendations of detailed engineering study and agreed to by the Director in accordance with the following schedule:

- A) On or before April 30, 1975 submit to the Director a progress report on the feasibility of connecting the sludge disposal wastewater generated at the Mianus Filter Plant to the sanitary sewer.
- B) On or before June 30, 1975 submit to the Director a suggested construction schedule for connecting the sludge disposal wastewater generated at the Mianus Filter Plant to the sanitary sewer system of Greenwich.
- C) On or before July 31, 1977 verify to the Director that either the sludge disposal wastewater has been connected to the sanitary sewer system or that the treatment facilities for which plans and specifications were approved by the Director on January 10, 1974 have been placed in operation.
- D) On or before July 31, 1976 submit to the Director an engineering report verifying that the filter backwash water can be discharged without treatment to meet the effluent limitations in paragraph 2 above.

This order shall be considered as the permit required by Section 402 of the Federal Water Pollution Control Act and shall expire on March 10, 1980.

This order shall be subject to all the NPDES General Conditions dated December 27, 1974 which are hereby incorporated into this order.

Upon verification of full compliance with this order, a letter acknowledging this order to be equivalent of a permit issued under section 25-54i and/or a revised NPDES permit will be issued.

Entered as an order modification of the Director the 10 th day of March, 1975.

Robert B. Taylor
Robert B. Taylor, DIRECTOR
WATER COMPLIANCE AND HAZARDOUS SUBSTANCES
Department of Environmental Protection
State of Connecticut

Order No. 979 Modified
NPDES No. CT0001325
Application No. 07Y000200829

STATEMENT
MIANUS VALLEY PROPERTY OWNERS ASSOCIATION
TO
NPDES PERMIT HEARING
STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JUNE 25, 1975

Hearing Exhibit 10

INTRODUCTION

My name is Charles H. Biederman. I am a member of the Board of Governors of the Mianus Valley Property Owners Association. I am representing Mr. A. L. Clausi, President of the Association who is out of the country on business.

The Mianus Valley Property Owners Association is an association of private citizens living in the vicinity of the Mianus River and dedicated to maintaining the character of the region as primarily a residential area with an unusual endowment of natural benefits, not the least of which is the lovely Mianus River. The Association has approximately two hundred member families and devotes itself to matters of environment, zoning, screening, safety and development.

There are other members of the Board here this evening who have been continually interested in the subject of the hearing. We also have with us Mr. Warren R. Bradley, a resident of Cos Cob and an environmental engineer by profession.¹ (Mr. Bradley has been giving us technical advice. Mr. Bradley has a degree in Civil Engineering from Cornell with advanced courses in sanitary engineering. He is a registered engineer in eight states and a member of the National and Connecticut Societies of Professional Engineers, American Academy of Environmental Engineers, American Society of Civil Engineers, American Water Works Association, Water Pollution Control Federation. I have a copy of his other accomplishments and credentials if anyone wishes to have them.)

We have requested a hearing for two reasons - one, because of the lack of notice on publishing the permit - it appeared in the Greenwich Time on April 4 requiring a reply date of April 10 - and two, because we felt that the citizens who live in the vicinity of the river should have a voice in the fate of the river.

ASSOCIATION VIEWPOINT

Before discussing the particulars of the situation, I'd like to express a summary of the viewpoint of the Association. As we have said in the local Representative Town Meeting, and meetings of its committees and in correspondence with the DEP, Water Company and the Town, we have questions ... many more questions than we have answers. The Association has not taken a stand for or against sewers. We have been active in pressing for sewers when in our opinion they were needed in our served region. We are on record as having requested sewers in the Pond Place, Dandy Drive area which is a key part of the subject at hand. Our concern is not whether sewers are needed throughout this area. Our objective is to obtain the best, most expeditious method to abate pollution of the Mianus River. We wish to assure that sub-projects do not cause digressions or delay this clean-up. We wish to assure that the remedy, if clean-up is not carried out expeditiously, is clear, automatic and effective. That is the position of the Association.

WATER PLANT HISTORY

This situation which we are discussing tonight began in 1953 when the Water Company's plant was in the design stage. In March of 1953² communication between the Water Company and the State Water Commission indicated that the State was concerned about disposal of wash waters for the proposed Mianus plant. The State asked that the Company submit its proposed plan. After reviewing the Water Company's plan the state replied that³ "the experience of the state has been that there are no complaints where lagoons are used to settle out solids." Land originally owned by the water company available for lagoons had been sold off. The State was reluctant to give approval.

The State could issue the permit to build on a provisional basis subject to mandatory correction if proposed plans should prove objectionable. The State was fearful of future complaints and additional expense to the water company. A letter from the State⁴ to the Water Company in 1955 warns against build-up of sludge. There is mention that there is already a problem of clogging. The potential problem has been recognized since the design and early operation of this plant.

As far as the residents know, the plant operated for the next 15 years without any indication of problems.

DEFINITION OF THE PROBLEM

The Property Owners Association in 1970⁵ met with Mr. Yates of the Greenwich Water Company, primarily to discuss the source of a substantial amount of algae-like suspended silt that had appeared at the turn of the river behind Mr. Alan Barton's property about a half mile below the water plant. The deposits were up to $5\frac{1}{2}$ feet in depth. Mr. Yates was most cooperative and agreed to have the material analyzed. Following this meeting,⁶ Mr. Yates said the Water Company had set money aside in the 1971 budget to cover testing of water above and below the water plant. Evidently testing was not a standard practice at that time.

Several months later, after the analysis, the Association with Mr. Yates surmised that the back flushing of alum flocculating material was probably the cause of the silted material. The alum is used in settling out solids in the plant.

This was in 1971. The matter was discussed with the Greenwich Health Department. Per a letter from Mr. Yates to Dr. Kraus of the Health Department, the Water Company declared that they had not previously tested the water below the water plant. Mr. Yates said at that time that various studies would be made and that the company planned to treat and remove solids from plant effluent.

ATTEMPTS AT SOLUTION

In December of 1971, the Association communicated with Dan Lufkin,⁷ at that time Commissioner of the Department of Environmental Protection, and advised him of the discussions we had had with the Health Department and the Water Company.

Mr. Yates was advised of our action. The plant was inspected⁸ in January of 1972 by the State. Following this an order⁹ was issued to abate the pollution and to dispose of the sludge in a manner which would not degrade the Mianus River.

The Company was to submit an engineering report by August 31, 1972, construction plans and specifications by December 31, 1972, start construction by March 31, 1973 and have the plant in operation by June 30, 1973. This was Order Number 979 from the State. It was a State order to have a plant in operation on June 30, 1973.

That would mean that this plant would have been operating two full years on the 30th of this month.

EXTENSIONS OF SCHEDULE

In May of 1972,¹⁰ after a discussion with the Water Company, the State extended the dates down the line including the operating date to November 30, 1973.

In a letter explaining this to the Association dated July 27, 1972, Mr. Yates stated: "The reason for the extended period of time is the fact that we met with the E.P.A. and it was agreed that it would be necessary to install a treatment plant at our Mianus Filter Plant. We stated to you at our last meeting that treating the wash water presented a problem much more severe than the use of drying beds. It is agreed that we have too small an area to install drying beds and that it would be offensive to the neighbors and people passing the plant. To date there is no patented method that will do a desirable job on such treatment."

As a matter of fact, a number of processes have been and are in common use, although they may not be patentable.

With this extension, the plant was to be in operation November 30, 1973.

Mr. Clausi in forwarding this letter to the Board said that he saw no reason to oppose this extension in that we didn't want settling tanks at the site if we could avoid it.

There is a letter¹² from J. H. Long to Mr. Lufkin that the original order 979 was predicated on the construction of lagoons, but lagooning wasn't possible because of limited land area and proximity to residences. This takes us back to the warnings of the State in 1953.

In January of 1973¹³ the engineering report on the plant modification was submitted in accordance with order 979 modified. It was accepted by the State. However, upon receiving the applied for approval, the Water Company¹⁴

-1-

said they needed additional time and requested on various stages from
15
5 months to one year. The State denied the requested extension on
May 30, 1973 but did say that construction could be extended to start by
the end of March 1974. This is one and one-half years after the initial
required start-up date.

A letter to Mr. Clausi¹⁶ on November 20, 1973 indicated that
the new submission date for plans and specifications for all treatment
facilities had been extended to December 31, 1973.

The plans and specifications were submitted by the Water Company
and on January 10, 1974 they were approved by letter¹⁷ from Merwin E.
Hupfer, Director of Water Compliance of the State of Connecticut. It
would appear that the problem was solved.

WATER COMPANY FINANCIAL PROBLEMS

However, in a letter to the State,¹⁸ on February 22nd of 1974,
J.L. Rodgers, Jr., President of the Greenwich Water Company acknowledged
the receipt of the approval. And he acknowledged that March 31, 1974 was
the new date for placing of orders for the equipment. But unfortunately
the Greenwich Water Company was experiencing a severe financial squeeze
at that time as a consequence of inflationary costs and inflated interest rates
on current indebtedness. This meant that the company was unable to borrow
additional funds. Consequently, the Water Company would be unable to
make commitments for the start of construction or the ordering of materials
for the waste water treatment facilities.

On March 25, 1974¹⁹ Mr. Kulowiec of Water Compliance of the State requested that the Public Utilities Commission advise as to the Company's claims of financial instability and their ability to gain funds in the future with proposed rate increases. No letter of reply was found in the files. However, we did check with the Public Utilities Commission and confirmed that the Water Company had requested a rate increase in February of 1974 of \$814,000. They received approval for \$433,000 in July based on the fact that they could not meet expenses, both capital and operating.

We have not analysed the effect of this increase on the company's ability to make a capital expenditure but the cost of the proposed plant was estimated at that time for \$750,000 and it seems reasonable to believe that over the life of such a facility that that amount could be handled, or additional rate increases could be sought.

In our discussion with our legal advisor, we are told that compliance with the law does not depend on financial ability. In other words, you can't ignore the law just because you're out of cash.

However, Mr. Rodgers advises the State in his letter that "once relief has been obtained, and the company's rate of return has been improved, a review will be made of our ability to borrow money for construction and the establishment of priorities for 1974 will be made. At that time I will be in a better position to advise you of the schedule for construction of the waste water treatment facilities." He goes on to request another extension.

There is no mention of where in his list of priorities this task was prior to this date.

NEW PERMIT

On March 4, 1974²⁰ the State DEP wrote to Mr. J. O. Yates forwarding a draft permit to discharge pollutants into the waters of the United States. This draft permit had an entirely new set of proposed dates. This is the draft of the N.P.D.E.S. permit which is under discussion tonight.

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On March 12, 1974 Mr. Rodgers replied to the draft permit letter and said that the discharge limitations are inconsistent with those discussed in previous meetings, dates are omitted from the draft and he proposes a meeting.

It is assumed that there were numerous discussions of the terms of the proposed permit. It must also be assumed that the dates for bids, start of construction and possibly plant start-up were sliding by. This is the treatment facility that was originally to be in operation in June of 1973. The discussions were being held in 1974.

SEWER OPTION INVESTIGATED

In September of 1974,²² Mr. Clausi wrote to the State asking for information on Order 979. On October 28th²³ Mr. Clausi asked again for information. On November 7th,²⁴ a Mr. William Hogan of the DEP wrote and said that there had been a change in personnel and that all further correspondence should be directed to him. In the same letter he said that he had visited Greenwich on November 1 and visited the Mianus plant for the

purposes of drafting an NPDES permit. In that letter he said he had also visited with Mr. Kennedy of the Town of Greenwich. Mr. Kennedy informed him that an engineering report was just completed by Metcalf and Eddy concerning sewers for the Mianus area. This study according to his letter considered inclusion of the waste waters from the Mianus filter plant. Also in this same letter we are informed that the DEP looks favorably on the possibility of connecting the waste waters to the sanitary sewers rather than the construction of a separate treatment plant. For this reason the first step in the NPDES permit was a report due April 30, 1975 on the feasibility of connecting to the sanitary sewers. We do not know if this date was met.

The second step in the permit requires that a proposed construction schedule be forwarded to the Connecticut DEP.

STATE ORDER SET ASIDE

Mr. Hogan goes on to say "I should remind you that this NPDES permit will replace the State Order dated May 1973 and any requirements of that order."

Mr. Clausi,²⁵ for the Association, wrote on December 27, 1974, that we were disappointed to know that the May 1973 order had been set aside, and asked for help in understanding what agreement has taken place between the Water Company, the State and the Town.

On January 7th of this year,²⁶ Mr. Hogan wrote that the May 1973 order has not been set aside. It is being modified to reflect changes in the possibilities of correcting the problem with the filter plant discharge.

To quote from Mr. Hogan's letter: "At the time the original order was issued there was no discussion of sewer installations in the plant area. Hence, it was necessary to require the water company to construct their own treatment plant. Since that time an engineering study has been completed which studied the most feasible means for providing sewers in the North Mianus area. As you probably realize, the need for sewers in this area is due to inadequate subsurface disposal systems. The engineering study has proposed that the main interceptor sewer be located along Valley Road. Due to this location, it is now possible to consider the connection of the filter plant discharge to the interceptor sewer.

"No firm agreement has been reached as of this date between the Greenwich Water Company and the town. On April 30th the Greenwich Water Company must report to us on the feasibility of connecting their discharge to the proposed system.

"You can be assured that this matter has not been set aside indefinitely."

METCALF & EDDY STUDY

This is the Metcalf and Eddy sewer study.²⁸ It is dated October 22, 1974. It covers the area from the point of the existing sewer on Valley Road up to just beyond the Water Company's Mianus plant. This study completed in October of last year, doesn't mention the Water Company.

NEED FOR SEWERS

This study covers the approximately 3000 feet needed to sewer the Dandy Drive Pond Place area which the Town of Greenwich Health Department had condemned in 1972. It also covers another approximately 7,000 feet extending to just beyond the Water Company. To date there is no Health Department Report on this area to our knowledge nor have the citizens petitioned for sewers. Mr. Perna²⁸ the head of the Greenwich Public Works at the recent RTM meeting and in his June 9th letter to the committees of the RTM says there have been numerous inquiries about sewers in the Palmer Hill and Sheephill Road area. No one has to our knowledge requested sewers beyond the Palmer Hill intersection.

This sewer study has created some of the questions in our mind as to the near-term viability of the sewer system as a solution to the pollution problem on the Mianus. Specifically, why is there no mention of the Water Company's plant in this study? There are "rules of thumb" in the sanitary business, that when a study of an area is done, and any industry could potentially contribute in excess of 10% of the system's load, that industry is specifically studied and included in the study findings.

DISCHARGE TO SEWER

According to the various draft permits, there will be a discharge between 630,000 gallons per day and 190,000 gallons per day from this plant. The Metcalf & Eddy study figures on a population ultimately in this area of 3,000 people with an average of 125 gallons per day per person. That's 375,000 gallons.

The high estimate on the Water Company effluent of 680,000 G/day would be equal to adding another 4640 people and the low estimate would be equal to an additional 1520 people. The town estimates 250,000 gallons/day which is equivalent to 2,000 people.

That's a substantial additional load and it isn't mentioned in the study.

On Page 7-2 of the study, it is stated that the existing sewer from the proposed area to the Cos Cob pumping station could handle all of the surcharge if the new area were fully developed. The 24 inch sewer from Strichland Road could handle full development of its present area plus the North Mianus developing area with only minor surcharge. "However, at some time before full development of these areas takes place it is expected that the 15 inch and 12 inch sewers will have become seriously surcharged unless relief has been provided." In other words, if the Water Company connects, an equivalent of from 1500 to 4600 people in effluent will have been added in addition to the design estimate of Mianus population.

Industry practice usually assumes in a 125 gallon per day per capita, an allowance for some serving industry ... but it does not in any way allow for an additional 50 to 150%. It would appear that this solution may have cost implications beyond the study. We have no concern as long as the problem is solved and the costs incurred, short and long range, are paid by those who will benefit.

Granted sewers are needed in the Dandy Drive-Pond Place region where the septic systems plainly do not work and probably should never have been allowed. But we do not need to immediately sewer the entire area. The Dandy Drive area was cited by the Greenwich Health Department. It was the subject of a resident petition for sewers and the Association supported the residents. There is serious question right now as to why the sewer should extend up to the Water Company.

RTM AND FUNDS

The Town of Greenwich RTM²⁹ has questioned this project to the point that a proposal to apply for Federal Funds for this project was postponed for study by the RTM at the most recent meeting on June 9th.

In Mr. Perna's letter of information to the RTM prior to the last meeting he pointed out that the Mianus Sewer project was initiated by condemnation action of the Board of Health in June of 1972. First, that Board of Health action applied to only the first 3000 feet of the interceptor. It probably makes sense to study the entire area to properly size the initial interceptor. And it probably makes sense to make provision for the future. But it probably can be questioned whether we need to sewer all the way to the Water Company for the benefit of the citizens in that area, at this time.

To finish the sewer study discussion, the only document we have on the Water Company's discharge to the proposed sewer, is the June 5th letter of R.J. White of Public Works which gives data obtained from a meeting at the Water Company. This is where the figures of 250,000 gallons/day and 946 pounds of solids/day into the sewer are stated.

Mr. Perna states that during its review of the Town's study the DEP has determined eligibility costs and he outlines them. However, it is pertinent to spend a moment on costs. Costs would not be pertinent in a discussion of a Permit to Pollute but a precedent has been set, where a State-ordered treatment plant was granted a deferral and a new schedule based on the fact that the Water Company had run out of money. By the same token, the river's clean-up shouldn't be dependent on Town of Greenwich funds which may not be voted in the foreseeable future. That there is no assurance that they will be voted makes a discussion of financial feasibility relevant.

COSTS

The interceptor to Mimosa Drive will cost \$1,789,000 of which 90% may be eligible for State and Federal grant. The town's liability would in that case be \$178,900. The cost to benefited property owners for sewerage Dandy Drive-Pond Place is \$670,000. That's a minimum of \$850,000 of the citizen's money. Add assessment to Palmer Hill-Sheephill area residents for another \$348,000 and we're up to \$1,198,000. And you must continue to add citizen's dollars for all tributary areas.

You can't overlook the reaction that the citizens are going to have to constructing sewers where they do not feel they are vital. These are tough financial times. And just because we can get Federal funds for the main interceptor, the citizens of this area are not going to be anxious to dig down and more than match those funds with their own. It may not be realistic to base a Federal permit on this possibility.

We have been under Health Department condemnation in Dandy Drive-Pond Place area for three years, since June 21, 1972, and the sewers have been needed longer than that. But we haven't been able to get them built. We hope that sewers for Dandy and Pond Place are not forever linked to other projects.

QUESTIONS TO KEY PARTIES

At the time we requested a hearing we hoped that all of the parties involved would attend. We have sent questions to the Town Public Works Department, the Town Health Department, the Water Company and to the Department of Environmental Protection. I have copies of all of our questions here. I will not read them as I believe they will all receive attention from the appropriate parties but I would like to make them a part of the submitted record.

After the questions were submitted we did study the proposed permit in more detail and would like to see two subjects covered. First, what comes out of the river and goes into the sewer plant. The language in the various drafts refers to somewhere between 700,000 gallons per day and 190,000 gallons per day which go into the river. There is no language which states what will go through a treatment plant or what will go into the sewer. The dates in the permit now cover feasibility, plans and specifications start at construction and operation or completion.

It would seem reasonable, certainly in light of our track record for the past years to specify a date on which the Water Company is going to elect which direction they are taking. And each should have its own timetable.

For instance, give 60 days to make a decision as to whether the company builds its own treatment facility or will connect into the sewer.

If it is to be their own plant, extend another 30 days to go out for bid. There was an approved plant in 1974 and there is proven technology which can be applied in short order. Thirty days should be reasonable.

If it is to be a discharge to the Greenwich sewer system, proof should be supplied to the DEP that the sewer will be built promptly and a connection date should be established. If the water company elects to go to Greenwich sewer system and any date on their timetable is missed by 30 days, they should start construction of their own treatment facility.

The spirit of the NPDES permit is to establish steps for remedies. This is critical to the permit.

SUMMARY

To summarize: We have worked in good faith with all of the parties involved and we assume the same good faith on the part of the Town, the State, and the Water Company. But nothing has happened to solve a problem that was anticipated 22 years ago, brought to everyone's attention five years ago, was by order of the State to have been no longer a problem by the end of 1973 and was solved in an approved plan in 1974.

The Cos Cob power plant was ordered out of existence years ago. But it survives.

The Byram River which runs down the border between Greenwich and New York State has been the subject of legal maneuvers since the 1950's in an attempt to stop Port Chester from dumping raw, untreated sewage in the river and polluting the river and Long Island Sound. Private citizens in this town have spent nearly \$20,000 of contributed funds to stop that problem ... and it goes on.

We look at recent history on the Mianus and we see four years of work and no concrete. And we certainly do not want to have to be placed in the expensive, frustrating position of the groups working on the power plant and the Byram River.

The pollution has to be stopped. And we want to be confident that any proposed solution is based on a realistic plan of action with a sequence of measurable steps.

If the sewer project looks like a future project, it should not be used as a tactic to avoid an existing order. There is nearly 20 years of sludge in that river, much of it flushed out but enough remaining to kill a portion of the river bottom. To some degree it gets worse every day.

There are numerous ways to solve the problem with current technology. We request that the permit assure an immediate start on the most practical, expeditious, effective solution - one that is not dependent on anything but compliance with the spirit and letter of the law.

* * * * *

1. Attached resume of Warren R. Bradley
2. 3/53 letter Wm. S. Wise, Director State Water Commission to Aldrich of American Water Works Service Company
3. 3/26/53 letter from State to Trowbridge of Water Co.
4. 3/4/55 letter from Scott of State to Kaufman of Water Co.
5. 11/24/71 Report to Association by the Committee
6. 10/7/71 Yates of Water Co. to Kraus of Greenwich Health Department
7. 12/20/71 Association letter to Dan Lufkin
8. 3/31/72 Pickman of DEP to Clausi of Association
9. State DEP Order 979
10. 5/22/72 State Order 979 Modified
11. 7/27/72 Yates of Water Co. to Clausi
12. 4/28/72 J.H. Long of Water Co. to Lufkin
13. 1/25/73 Engineering Report of Water Co. to DEP
14. 4/27/73 Rodgers of Water Co. to Hupfer of DEP
15. 5/30/73 Hupfer to Rodgers of Water Co.
16. 11/20/73 Kulewicz of DEP to Clausi of Association
17. 1/10/74 Hupfer of DEP to Water Co.
18. 2/22/74 Rodgers of Water Co. to Hupfer
19. 3/25/74 Kuleweic of DEP to PUC
20. 3/4/74 Barlow of DEP to Yates of Water Co.
21. 3/12/74 Rodgers to DEP
22. 9/74 Clausi to DEP
23. 10/28/74 Clausi to DEP
24. 11/7/74 Hogan of DEP to Clausi
25. 12/27/74 Clausi to Hogan

26. 1/7/75 Hogan to Clausi
27. 11/22/74 Metcalf and Eddy Study of Mianus Sewer, proposed
28. 6/9/75 Perna of Greenwich to RTM Committee Members
29. 6/9/75 RTM Meeting Minutes

Interdepartment Message

NO POST BOX, 1/74 STATE OF CONNECTICUT
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To	NAME	Robert E. Taylor	TITLE	Director of Water Compliance	DATE	8/14/75
	AGENCY	D.E.P.	ADDRESS	& Hazardous Substances		
From	NAME	Richard J. Barlow	TITLE	HEARING Examiner	TELEPHONE	
	AGENCY	D.E.P.	ADDRESS			

SUBJECT: NPDES Public Hearing-The Greenwich Water Company Greenwich-DEP/WPC-057-015

REPORT AND RECOMMENDATIONS OF HEARING EXAMINER

The hearing on the subject NPDES permit was held on June 22, 1975 in accordance with the public notice hereof. The Greenwich Water Company was represented by Attorney Frank L. Baker and William C. Strong. The Department was represented by Brian W. Armet, Senior Sanitary Engineer. There was no request from those present that a transcript of the proceedings be prepared.

The NPDES permit was issued as a modification of Order No. 979 on March 10, 1975. Following the public notice, it was determined that sufficient public concern on the subject permit warranted that a hearing be held to obtain additional public comments.

The original order entered on February 22, 1972 required the installation of facilities by the Greenwich Water Company to provide treatment for wastewaters generated by the water process purification.

Mr. Armet presented the NPDES permit, and correspondence received prior to the time of the hearing. Mr. Armet responded to questions submitted to the department by the Mianus Valley Property Association in a letter dated June 18, 1975. He explained that at the time the original order was issued a sanitary sewer did not appear to be available in the near future. However, recent developments have resulted in the potential that a sewer to serve the area down stream of the reservoir will be constructed in the near future.

Mr. Armet indicated that a preliminary eligibility determination had been made by the department on the interceptor sewer which would service this area. The opinion was expressed that the interceptor would be eligible. The need to connect the water company discharge was an important factor in this decision. If the interceptor was determined to be eligible, the federal/state monies available for the interceptor would be 90% of the cost. Mr. Armet indicated that the water company would be required to pay user charges and industrial cost recovery on their share of the capacity of the interceptor. Mr. Armet indicated that the Department had performed no tests of the river bottom downstream of the water company

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discharge to determine the environmental effects caused by the waste. He explained that the department policy was to issue orders to provide treatment for untreated discharges and was not based on the need to show an adverse environmental impact.

Attorney Baker representing the Greenwich Water Company responded to questions presented to the water company by the Mianus Property Association in a letter dated June 18, 1975. He indicated that the feasibility of a sewer connection was not explored during initial engineering design because it was not felt that the sewers would be available in the immediate area. He indicated that the water company was committed to meet the requirements of the NPDES permit. Mr. Baker indicated that at the present time the water company had made contact with the Town of Greenwich in respect to the potential availability of the sewer, however, the town had not established a firm schedule for the project thus the water company at this time was unable to control actual date when they would be able to eliminate their discharge by connection to the sanitary sewer. Mr. Baker indicated that of all the potential alternatives the water company considered the connection to the sanitary sewer the most feasible.

The Town of Greenwich was represented by Mr. John J. Kennedy of Public Works Department, Mr. Richard J. White, Superintendent of the Sewer Division, and Mr. Frank Singleton, Director of Environmental Health. Mr. Kennedy indicated that the water company which would have to pay for their share of the interceptor like any other industrial user. He further indicated that they would have to build holding tanks to allow for discharge of their flow during off peak hours. Mr. White indicated that the pollutants in the discharge would not adversely affect the town wastewater treatment facility. However, he expressed concern about the need to review the hydraulics of the sewers to determine their adequacy to handle the proposed discharge.

Mr. Singletown indicated that there was a need for sewers in the area downstream of the water company reservoir, specifically in the Pond Place and Dandy Drive areas. He indicated that Metcalf & Eddy, consulting engineers for the town, had prepared a report on the sewerage of that area. It was determined that sewers could potentially be in the area by July 1978.

The Mianus Valley Property Association was represented by Mr. Charles H. Biederman. He indicated that the property owners association was comprised of approximately 200 families living in the vicinity of the Mianus River. Mr. Biederman submitted a written statement containing the history of efforts to obtain treatment of the discharge. He stated that the Mianus water plant designed in 1953. His presentation detailed various actions taken by their group to secure the treatment of the discharge. These actions resulted in the issuance of the previously mentioned order from the Department on February 22, 1972. Plans and specifications for the facility to treat the wastes were approved by this unit on January 10, 1974. Because of financial constraints, the water company has been unable to initiate construction of the approved facilities. In the interim the Town of Greenwich had been exploring the possibilities of providing sewers to the area downstream of the reservoir and had

commissioned Metcalf and Eddy to prepare a feasibility report on sewerage of this area. Mr. Biederman questioned the feasibility of including the discharge of the water company in the design of the interceptor to service this area since the Metcalf and Eddy had not considered any flow from the water company. Mr. Biederman expressed the concern that by considering sewer connection as a means of correcting the problem, the water company would be placed in a position where the town and not the water company would be responsible for the project scheduling. Mr. Biederman also presented several technical papers dealing with potential methods of treating sludges from water purification plants.

Mr. Baker in response to a question indicated that additional treatment facilities would need to be proposed in order to meet the effluent concentrations which were now specified in NPDES permit. He anticipated that following redesign of the facilities, it would take between 18 months to 2 years to construct such facilities.

A general discussion ensued concerning the need for sanitary sewers in the area, potential grant eligibility and the cost which would have to be borne by the home owners for such facilities. Various officials of the Town of Greenwich including Mr. Leslie T. Hand, Chairman of the Pollution Control Committee of the RTM, Mr. Kennedy and Mr. Singleton and Mr. Arret and the Hearing Examiner attempted to answer various questions from citizens.

On the basis of our file information, the oral testimony presented at the hearing and written statements, it appears that there are two major issues which must be considered:

- 1) the best scheme for treatment of the wastewaters and,
- 2) the time schedule for implementation of such a program.

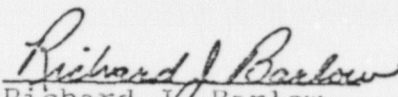
It is unfortunate that the need for sanitary sewers in the area of the discharge was not well defined when the initial order was issued back in 1972. The discharge of the wastewaters to the town sewerage system would be consistent with current policies to minimize the number of direct stream discharges. The elimination of this discharge would result in the removal of the only discharge in the upper reach of the Mianus River. The wastewaters generated would be adequately treated by a conventional municipal sewerage treatment plant.

The NPDES permit as drafted required the discharge of the wastewaters to the sanitary sewer by July 31, 1977. Testimony at the hearing indicated that a more realistic date for the availability of the sanitary sewer would be July 31, 1978. The scheduling for the interceptor sewer would be entirely dependent upon the Town of Greenwich.

The facilities which would have to be constructed by the water company if the sewer connection were to be made would consist of holding tank or tanks to retain the flow for discharge at off peak hours. These facilities provide no change in the character of the pollutants in discharge.

Since the need for sanitary sewers in the subject area has been defined, it would appear that the Department should issue an order for the construction of such facilities. This order would serve to establish a schedule for the installation of the interceptor which would provide for elimination of the water company discharge to the Mianus River.

It is recommended that the NPDES permit to Greenwich Water Company be modified to require the elimination of the discharge by connection to the sanitary sewer on or before July 31, 1978. It is further recommended that action be taken to issue an order to the Town of Greenwich to provide sewer services for the North Mianus watershed.


Richard J. Barlow
Hearing Examiner

RJB/am

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Interdepartment Message

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To	NAME Richard J. Barlow	TITLE Principal Sanitary Engineer	DATE August 26, 1975
	AGENCY Water Compliance Unit	ADDRESS	
From	NAME Robert B. Taylor	TITLE Director	TELEPHONE 3245
	AGENCY Water Compliance Unit	ADDRESS	
SUBJECT NPDES Public Hearing-The Greenwich Water Company - Greenwich DEP/WPC 057-015			

I concur with your recommendations as the Hearing Examiner on the hearing held on June 22, 1975 on the proposed modification of the NPDES permit to the Greenwich Water Company. You are authorized to prepare the permit modification for my signature.

Robert B. Taylor
Robert B. Taylor, DIRECTOR
WATER COMPLIANCE AND HAZARDOUS SUBSTANCES

RBT:dh

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